

General Information Letter: Whether or not award is exempt from Illinois income taxation is determined by federal income tax law.

August 27, 2002

Dear:

This is in response to your letter dated June 1, 2002 in which you state the following:

I am writing concerning tax on an unexpected award received by my wife and myself. The law firm advising the entity giving the award advises that it is subject to federal income tax. I have enclosed a copy of their letter for your information. In anticipation that the award is also subject to Illinois tax I have enclosed a check for \$1,050 which is 3% of the award. However, I ask that you review whether the award is in fact taxable under Illinois law.

As you can see from the letter, such awards were not subject to federal tax until 1986. My question is whether Illinois has regulations adopting the federal internal revenue code or whether Illinois has its own regulations as to taxing prizes and awards. If there are specific Illinois rules, what are they?

According to the Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLR") and General Information Letters ("GIL"). The regulations explaining these two types of rulings issued by the Department can be found in 2 Ill. Adm. Code §1200, or on the website <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics. GILs, however, are not binding on the Department.

Pursuant to the Illinois Income Tax Act ("the IITA" ; 35 ILCS 5/101 *et seq.*), net income for Illinois income tax purposes is a taxpayer's federal adjusted gross income ("AGI"). Accordingly, any sum properly excluded or deducted from income for federal purposes prior to the determination of AGI is effectively excluded from income for Illinois' purposes. Likewise, any sum required to be included from income for federal purposes prior to the determination of AGI is effectively included from income for Illinois' purpose. Section 203 IITA provides for certain addition and subtraction modifications to arrive at a taxpayer's Illinois base income. These modifications either add or subtract certain amounts of income from a taxpayer's federal AGI. However, none of the modifications to AGI described in Section 203 include a subtraction modification for an award such as the one you described. Accordingly, the classification of the "unexpected award" for federal income tax purposes automatically applies for purposes of computing Illinois net income.

Please note that my file indicates that your letter was NOT accompanied by a check, nor has any payment been posted to your account. Please check your records and with your financial institution to determine whether such check was inadvertently left out of the envelope or whether it was presented for payment.

I note that your letter did not indicate the tax year in which you received the award. In the event the award was received in a prior tax year, you will need to file an amended return for such tax year. Your payment should accompany the filing of that amended return. If the award was received during this tax year, Section 803 of the IITA requires that you pay estimated tax for the tax year if the

estimated tax is expected to be more than \$500. As your letter indicates that the estimated tax liability is in excess of \$500, you will need to file a form IL-1040-ES, Estimated Income Tax Payments for Individuals. The 2002 form can be found on our website at the following address:

<http://www.revenue.state.il.us/taxforms/incm2002/ind/il1040es.pdf>

As stated above, this is a general information letter which does not constitute a statement of policy that either applies, interprets or prescribes tax law. It is not binding on the Department. Should you have additional questions, please do not hesitate to contact our office.

Sincerely,

Matthew S. Crain
Staff Attorney -- Income Tax